



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2016-0362; FRL-9964-66-Region 4]**

**Air Plan Approval; North Carolina Miscellaneous Rules**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve several changes to the North Carolina State Implementation Plan (SIP) submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality (NCDEQ), on December 14, 2004 and March 1, 2016. The March 1, 2016, submission adds a new rule to the “Exclusionary Rules” of the North Carolina SIP, and the portion of the December 14, 2004, submission EPA is proposing to approve adds two new rules under a new section called “Permit Exemptions.” This action is being taken pursuant to the Clean Air Act (CAA or Act).

**DATES:** Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2016-0362 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose

disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Analysis of the State Submittals**

On December 14, 2004 and March 1, 2016, the State of North Carolina, through NCDEQ, submitted revisions to the North Carolina SIP. EPA is proposing to approve the March 1, 2016, submission which adds a new rule—15A NCAC 02Q .0809 *Concrete Batch Plants* and a portion of the December 14, 2004, submission which adds two new rules—15A NCAC 02Q .0901, *Purpose and Scope* and .0902 *Portable Crushers*. EPA has preliminarily determined that these changes to the North Carolina SIP are approvable pursuant to section 110 of the CAA. The changes that are the subject of this proposed rulemaking are described in further detail below.

**A. March 1, 2016, SIP Submission**

The March 1, 2016, submission adds a new exclusionary rule for concrete batch plants (15A NCAC 02Q .0809 *Concrete Batch Plants*) that excludes from Title V permitting requirements such facilities that operate below a specified annual production rate. The production rate that qualifies concrete batch plants for this permit exclusion is 1,210,000 cubic yards of wet concrete per year, which, based on an emission factor, corresponds to an emission rate below the major source threshold. Subject facilities are required to submit an annual registration to the appropriate regional office and report the quantity of wet concrete produced in the previous calendar year and maintain records of annual production for the previous three calendar years. This annual certification that the facility's production rate is below the specified level ensures continued protection of the NAAQS, specifically particulate matter, which is of particular relevance because concrete batch plants emit particulate matter, including particulate matter with an aerodynamic diameter less than 10 micrometers (PM<sub>10</sub>) and less than 2.5 micrometers (PM<sub>2.5</sub>). These excluded sources must also make prompt reports if they exceed the annual production rate limit, submitted within one week of the date on which the limit was exceeded.

The rule excludes from Title V permitting requirements all concrete batch plants in the state that produce less than 1.2 million cubic yards of wet concrete per calendar year and that are equipped with fabric filters or other functionally equivalent control devices to abate emissions of particulate matter, PM<sub>10</sub> and PM<sub>2.5</sub>, from storage silos and weigh hoppers that receive materials from cement and mineral admixture silos. The annual production limit of 1.2 million cubic yards of wet concrete is designed to limit particulate matter emissions from plants equipped with fabric

filters to less than the Title V permitting thresholds and is based on standard emission factors in use at the time of rule adoption.<sup>1</sup>

**B. December 14, 2004, SIP Submission**

The portion of the December 14, 2004, SIP submission that EPA is proposing to approve adds a new section (Section .0900 *Permit Exemptions*), which includes the following two new regulations:

- a. 15A NCAC 02Q .0901 *Purpose and Scope* is a new exclusionary rule which provides for exclusions from construction and operating permits for certain types of sources and activities. Sources subject to Title V permitting requirements are not eligible for exclusion under this rule. Sources eligible for permit exclusions under this rule may still apply for and receive construction and operating permits. At the time of this submittal, only one source category would be eligible for exclusion from permitting under Section .0900, if approved as proposed: Portable Crushers. The rule excludes from general construction and operating permitting requirements all specific listed sources that, due to the temporary, portable, and/or low-emitting nature of their operations, typically do not meet the applicability requirements for air permits, so long as they meet the requirements for the exclusion. These source-specific exclusions contain provisions that limit the sources' potential emissions, such as constraints on operating hours and fuel consumption. The exclusions' use of operational or production-based limits instead of potential-emissions limits would streamline sources' analyses of whether or not they are required to obtain a permit.

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<sup>1</sup> North Carolina cites EPA's AP-42 (U.S. EPA Office of Air Quality Planning and Standards, *Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources, AP-42, Fifth Edition*) in its response to comments from the December 14, 2004, submittal included as an attachment to the March 1, 2016, submittal.

b. 15A NCAC 02Q .0902 *Portable Crushers*, is an exclusionary rule which provides for exclusions from construction and operating permits for portable crusher operations that meet the following criteria:

- No more than 300,000 tons of material crushed per any 12-month period;
- No more than 17,000 gallons of diesel fuel burned during any 12 months (for both diesel generators and diesel engines used to drive crushers);
- No more than 12 months of operation at a particular site;
- Continuous use of water spray to control emissions from the crushers

Portable crushers operating at quarries with air permits are not eligible for this permit exclusion.

The rule excludes from general construction and operating permitting requirements portable/temporary crushing operations, providing the eligibility criteria listed above are met. The eligibility criteria are designed to ensure that these portable crushing operations do not operate for more than 12 months at a site. Records of production and fuel consumption must be maintained, and all equipment at each site must be labeled with unique identification numbers. The eligibility criteria are also based on corresponding emission rates and are thus designed to ensure that potential emissions of particulate matter (including PM<sub>10</sub> and PM<sub>2.5</sub>), sulfur dioxide, and oxides of nitrogen from these sources are below relevant permit applicability thresholds. Therefore, the revision will not interfere with attainment and maintenance of the NAAQS pursuant to CAA section 110(l).

Crushing operations eligible for this permitting exclusion must still comply with all applicable air quality standards, such as Rule .0510 *Particulates from Sand, Gravel, or Crushed*

*Stone Operations*, .0516 *Sulfur Dioxide Emissions from Combustion Sources*, and .0521 *Control of Visible Emissions*, and any New Source Performance Standard, among other state and federal air quality standards.

## **II. Incorporation by Reference**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 15A NCAC 02Q .0809 entitled “*Concrete Batch Plants*” effective April 1, 2004, a new exclusionary rule for concrete batch that excludes from Title V permitting requirements such facilities that operate below a specified annual production rate; 15A NCAC 02Q .0901 entitled “*Purpose and Scope*” effective January 1, 2005, a new exclusionary rule which provides for exclusions from construction and operating permits for certain types of sources and activities; and 15A NCAC 02Q .0902 entitled “*Portable Crushers*” effective January 1, 2005, an exclusionary rule which provides for exclusions from construction and operating permits for portable crusher operations. EPA has made, and will continue to make, these materials generally available through [https:// www.regulations.gov](https://www.regulations.gov) and/or at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

## **III. Proposed Action**

EPA is proposing to approve North Carolina’s March 1, 2016, submission and a portion of the December 14, 2004, submission. The changes pertain to the addition of two new rules under a new section “Permit Exemptions” and adds a new rule to the “Exclusionary Rules” of the North Carolina SIP. These rule adoptions do not contravene federal permitting requirements or

existing EPA policy, nor will they impact the NAAQS or interfere with any other applicable requirement of the Act. *See* 42 U.S.C. 7410(l).

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed action:

- are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.



**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 26, 2017.

V. Anne Heard

Acting Regional Administrator,

Region 4.

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